UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

SUTTER WEST BAY HOSPITAL d/b/a CALIFORNIA PACIFIC MEDICAL CENTER Employer

and

Case 20-UC-076774

INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL NO. 39

Union

ORDER

The Employer's and Union's Requests for Review of the Regional Director's Decision and Order are denied as they raise no substantial issues warranting review.¹

MARK GASTON PEARCE, CHAIRMAN

BRIAN E. HAYES, MEMBER

RICHARD F. GRIFFIN, JR., MEMBER

Dated, Washington, D.C., November 1, 2012

In its Request for Review, the Union contends that the Regional Director erred in finding that the chief engineers have the authority to effectively recommend hiring and in failing to find that they do so exercising independent judgment. In support of its first contention, the Union cites testimony by some witnesses indicating that the chief engineers themselves make the final hiring decisions. We find it immaterial whether the chief engineers' role in hiring is characterized as effectively recommending hiring or as having the authority to hire; under Sec. 2(11), either is sufficient to establish supervisory authority, provided that such authority is exercised in the interest of the employer using independent judgment. See, e.g., *Fred Meyer Alaska, Inc.*, 334 NLRB 646,

649 (2001) (finding that supervisors exercised independent judgment in hiring or effectively

recommending the hiring of employees).

Here, the undisputed facts establish that the chief engineers are accorded complete discretion in selecting who will be hired, based on their own assessments of what skills are needed and whether the applicants have the appropriate qualifications. Thus, they decide whom to interview according to their own criteria, conduct interviews by asking questions they deem relevant, assess the applicants' skills and qualifications based on their own requirements and tests, and make their own hiring selections. The evidence before us indicates that in some instances the chief engineer makes a hiring recommendation, which the director routinely accepts, and in some instances makes the hiring decision himself. This degree of control over the hiring of engineers necessarily involves the exercise of independent judgment and establishes that the chief engineers are statutory supervisors based on their role in hiring. See id.; *Union Square Theater Management*, 326 NLRB 70, 71 (1998).